

AMENDED IN ASSEMBLY MAY 23, 2002

AMENDED IN ASSEMBLY APRIL 18, 2002

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL

No. 2630

Introduced by Assembly Member Harman

February 22, 2002

An act to add Sections 17251.6 and 24357.11 to the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 2630, as amended, Harman. Income and corporation taxes: conservation easements: farming.

The Personal Income Tax Law and the Bank and Corporation Tax Law, in specified conformity to federal income tax law, allow a deduction for a charitable contribution of a qualified conservation easement, as defined, but, among other things, provide that any excess contribution may be a carryover only to the succeeding 5 taxable years.

This bill would delete that 5-year limitation and allow a carryover to all succeeding taxable years until used. ~~This bill would apply its provisions to a contribution of a qualified conservation easement made during any taxable year beginning on or after January 1, 1997.~~

~~This bill would express the public purpose for extending the provisions of this bill to contributions made during taxable years, January 1, 1997, through January 1, 2001.~~

This bill would take effect immediately as a tax levy.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 17251.6 is added to the Revenue and Taxation Code, to read:

17251.6. (a) In the case of a qualified conservation contribution, ~~as defined by Section 170(h) as described in Section 170(h)(2)(C) of the Internal Revenue Code, with respect to real property in this state used in a farming business, as defined by Section 263A of the Internal Revenue Code, in subdivision (b),~~ Section 170(d)(1) of the Internal Revenue Code, relating to carryovers of excess contributions, is modified to provide that the carryover of any excess contribution shall not be limited to five years but, instead, may be a carryover to all succeeding taxable years.

~~(b) This section shall apply to a qualified conservation contribution, as defined in Section 170(d)(1) of the Internal Revenue Code, with respect to real property in this state used in a farming business, as defined in Section 263A of the Internal Revenue Code, made during any taxable year beginning on or after January 1, 1997.~~

(b) For purposes of this section, “farming business” means those lines of business described in Codes 0111 to 0291, inclusive, of the Standard Industrial Classification Manual published by the United States Office of Management and Budget, 1987 edition.

SEC. 2. Section 24357.11 is added to the Revenue and Taxation Code, to read:

24357.11. (a) In the case of a qualified conservation contribution, ~~as defined by described in clause (iii) of paragraph (2) of subdivision (a) of Section 24357.7, with respect to real property in this state used in a farming business, as defined by Section 263A of the Internal Revenue Code, in subdivision (b),~~ Section 170(d)(2) of the Internal Revenue Code, relating to carryovers of excess contributions, is modified to provide that the carryover of any excess contribution shall not be limited to five years but, instead, may be a carryover to all succeeding taxable years.

~~(b) This section shall apply to a qualified conservation contribution, as defined in Section 24357.7, with respect to real property in this state used in a farming business, as defined in~~

1 ~~Section 263A of the Internal Revenue Code, made during any~~
2 ~~taxable year beginning on or after January 1, 1997.~~

3 ~~SEC. 3. This act, by extending the unlimited carryover period~~
4 ~~to unused excess contributions of qualified conservation~~
5 ~~contributions of real property used in a farming business with one~~
6 ~~or more years remaining in the five-year carryover period, serves~~
7 ~~the public purposes of encouraging the continued donation of real~~
8 ~~property for the purposes of providing open space for the scenic~~
9 ~~enjoyment of the general public; preserving historically~~
10 ~~significant land and buildings; or implementing a federal, state, or~~
11 ~~local governmental environmental policy that will yield a public~~
12 ~~benefit.~~

13 ~~SEC. 4.—~~

14 ~~(b) For purposes of this section, “farming business” means~~
15 ~~those lines of business described in Codes 0111 to 0291, inclusive,~~
16 ~~of the Standard Industrial Classification Manual published by the~~
17 ~~United States Office of Management and Budget, 1987 edition.~~

18 ~~SEC. 3. This act provides for a tax levy within the meaning of~~
19 ~~Article IV of the Constitution and shall go into immediate effect.~~